

RESOLUTION No. 2006-8

RESOLUTION OF THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT BETWEEN WARRICK COUNTY, INDIANA AND SOUTHERN INDIANA GAS AND ELECTRIC COMPANY OR ITS DESIGNEE IN CONNECTION WITH THE ISSUANCE AND SALE BY WARRICK COUNTY, INDIANA OF ONE OR MORE SERIES OF ITS ENVIRONMENTAL IMPROVEMENT REVENUE BONDS AND RELATED MATTERS.

WHEREAS, Warrick County, Indiana, a political subdivision of the State of Indiana (the "*Issuer*"), is authorized and empowered by the provisions of I.C. 36-7-11.9-1 *et seq.*, as amended, and I.C. 36-7-12-1 *et seq.*, as amended (collectively, the "*Act*"), to issue and sell revenue bonds to finance "pollution control facilities" (as defined in the Act) under the conditions and limitations set forth in the Act; and

WHEREAS, Southern Indiana Gas and Electric Company either by itself or through other entities to be designated by it (the "*Company*") wishes to acquire and construct certain facilities (the "*Projects*") and wishes to have Warrick County, Indiana (the "*Issuer*") issue one or more series of its revenue bonds to finance the acquisition, construction and equipping of said Projects to be located within the boundaries of Warrick County, Indiana and to be erected and located as a part of, adjacent to or near the Company's Culley and/or Warrick Unit 4 Generating Stations which are located near Yankeetown in Warrick County, Indiana; and

WHEREAS, a Memorandum of Agreement has been presented to the Issuer under the terms of which the Issuer agrees, subject to the provisions of such Agreement, to issue one or more series of its revenue bonds to finance the acquisition, construction and equipping of such Projects, a copy of said Memorandum of Agreement being attached to this Resolution as EXHIBIT A;

NOW, THEREFORE BE IT RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that the Memorandum of Agreement dated the 10th day of May, 2006, substantially in

the form attached hereto as EXHIBIT A, be and the same is hereby authorized to be entered into between the Issuer and the Company, and the County Commissioners of Warrick County are hereby authorized and directed to execute the Memorandum of Agreement, substantially in the form attached hereto as EXHIBIT A, for and on behalf of the Issuer, and the County Auditor is hereby authorized and directed to attest said Memorandum of Agreement on behalf of the Issuer.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that the County Commissioners of Warrick County, the County Auditor and the County Attorney be and they are hereby authorized to take such further action as may be necessary to carry out the purposes and intent of the Memorandum of Agreement and to issue one or more series of the County's Environmental Improvement Revenue Bonds upon the terms and conditions stated in said Memorandum of Agreement.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that this Resolution shall constitute a declaration of "official intent" with respect to any reimbursement of Project costs within the meaning of §1.150-2 of the Federal Income Tax Regulations.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that the obligation of the County shall be limited solely to the good faith effort to consummate the proceedings necessary to issue one or more series of the revenue bonds, and neither the County Council, the County Commissioners nor their respective agents shall incur any liability whatsoever if for any reason the proposed issuance of the revenue bonds is not consummated.

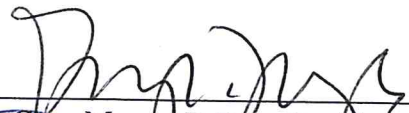
BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that this Resolution shall be made available for public inspection at the main administrative office of the County or at the customary location of records of the County that are available to the general public within 30 days after the passage of this Resolution and will remain available for public

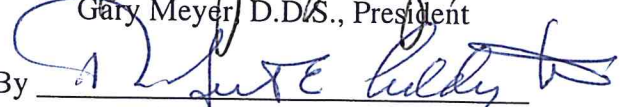
inspection on a reasonable basis until the date one or more series of the revenue bonds are issued by the County to reimburse the Company's expenditures.

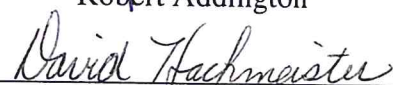
BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that all resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

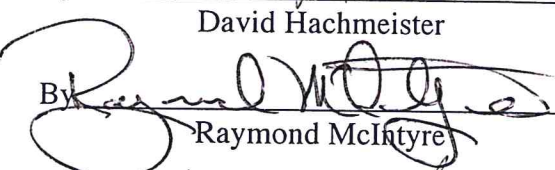
THIS RESOLUTION shall take effect and be in full force from and after its passage by the County Council and all actions of the officers, agents and employees of the County that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed and adopted.

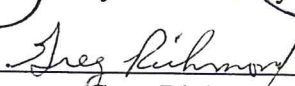
WARRICK COUNTY COUNCIL

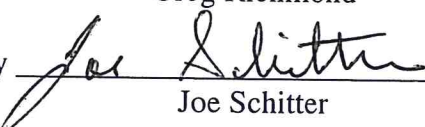
By 
Gary Meyer D.D.S., President

By 
Robert Addington

By 
David Hachmeister

By 
Raymond McIntyre

By 
Greg Richmond

By 
Joe Schitter

ATTEST:


Richard Kixmiller, County Auditor

SCHEDULE I

DESCRIPTION OF THE PROJECTS

The Culley and Warrick Unit 4 Generating Stations (the "*Stations*") are located near Yankeetown in Warrick County, Indiana.

The Projects consist of real estate, equipment and facilities to be acquired, improved, installed, and constructed for use as industrial sewage and wastewater treatment facilities; pollution control facilities; hazardous waste disposal facilities; solid waste disposal or recycling facilities; environmental media remediation facilities; spill prevention and recovery systems; and resource recovery facilities (as such terms are defined in the Internal Revenue Code and regulations thereunder) at the Stations, including, without limitation, incinerators; ash and sludge disposal ponds; wastewater retention ponds; dewatering devices; aerobic digestion; anaerobic treatment; solvent recovery units; catalytic oxidation converters; heat exchangers; evaporators; residue handling; ash removal systems; landfills; baghouses; electrostatic precipitators; scrubbers; separators; strippers; absorbers; filters; condensers; mercury reduction equipment; solid waste conveyance systems such as (i) pneumatic piping system for dry wastes; (ii) piping and pumps for sluicing slurries to disposal ponds; (iii) conveyor belts and; (iv) trucks; soil remediation; groundwater collection; equipment cleaning; waste storage and handling; sludge handling and dewatering; solid waste recycling; and sewage collection and processing, including (i) secondary treatment of wastewater; (ii) preliminary or primary treatment of wastewater in connection with secondary treatment of wastewater; (iii) advanced or tertiary treatment of wastewater in connection with or after secondary treatment of wastewater; (iv) collection, storage, use processing or final disposal of wastewater or sewage sludge; (v) treatment, collection, storage, use, processing or final disposal of sewage; and (vi) functionally related and subordinate property. These facilities include monitoring and control equipment, process equipment, utilities or support systems, related structures and buildings, and site development. The function of the facilities is to provide for waste removal, reduction, alteration, recycling or disposal by any or a combination of chemical, physical or biological process or for construction of storage, disposal or recycling facilities. These facilities include modification to any of the foregoing and facilities which are functionally related and subordinate to but not limited to the foregoing, for the treatment and disposal of industrial sewage, pollution, hazardous waste, wastewater and solid waste.

EXHIBIT A

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is between WARRICK COUNTY, INDIANA, party of the first part (the "*Issuer*"), and SOUTHERN INDIANA GAS AND ELECTRIC COMPANY, an Indiana corporation, party of the second part (the "*Company*").

Section 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

(a) The Issuer is a political subdivision of the State of Indiana organized under and pursuant to the laws of the State of Indiana and is authorized and empowered by the provisions of I.C. 36-7-11.9-1 *et seq.*, as amended, and I.C. 36-7-12-1 *et seq.*, as amended (collectively, the "*Act*"), to issue and sell one or more series of revenue bonds for the purpose of making the proceeds therefrom available to the Company (or to another entity to be designated by the Company) in order to finance the cost of the acquisition, construction and equipping of certain facilities described in Schedule I attached to the related resolution (the "*Projects*") necessary and incidental to the operation of the Culley and/or Warrick Unit 4 Generating Stations owned by the Company.

(b) The Company has informed the Issuer that it expects to pay a portion of the costs of the Projects which are incurred before the issuance of one or more series of the Issuer's revenue bonds with a temporary advance from the general funds of the Company. The Issuer reasonably expects that, to the extent permitted by law, the Company will be reimbursed with the proceeds of one or more series of such revenue bonds for such expenditures. The maximum aggregate principal amount of debt expected to be issued for the Projects is currently estimated not to exceed \$80,000,000.

(c) Subject to due compliance with all requirements of law and to the provisions of Section 4 hereof, the Issuer by virtue of such statutory authority as may now or

hereafter be conferred by the Act, as amended, will issue and sell one or more series of its revenue bonds in an aggregate principal amount sufficient to pay costs of the Projects, currently estimated not to exceed \$80,000,000. Such amount may be amended, altered and changed by mutual agreement of the Issuer and the Company as the Projects proceed.

(d) The Issuer finds that the Projects will constitute "pollution control facilities" within the meaning of the Act and the acquisition, construction and equipping of the Projects will promote and further the purposes of the Act.

(e) It is intended that this Agreement and the related resolution of the County Council authorizing this Agreement are to constitute official action with respect to the Projects and all of its costs which may now or hereafter qualify for financing by means of the issuance of one or more series of revenue bonds, the interest on which is exempt from federal income taxes. It is recognized that construction will take a substantial period of time during which the costs and the design of the Projects may change and that the law and its interpretation with respect to financeable costs may similarly change and the intent hereof is that all such costs are to be hereby approved.

(f) The obligation of the Issuer shall be limited solely to the good faith effort to consummate the proceedings necessary to issue one or more series of the revenue bonds, and neither the County Council, the County Commissioners nor their respective agents shall incur any liability whatsoever if for any reason the proposed issuance of the revenue bonds is not consummated.

Section 2. Undertakings on the Part of the Issuer. Subject to the conditions above stated, the Issuer agrees as follows:

(a) That it will use its best efforts to authorize the issuance and sale of one or more series of such revenue bonds, pursuant to the terms of the Act as then in force, in an

aggregate principal amount sufficient to pay costs associated with the acquisition, construction and equipping of the Projects, currently estimated not to exceed \$80,000,000.

(b) That it will cooperate with the Company to endeavor to find a purchaser or purchasers for one or more series of said revenue bonds, and if purchase arrangements satisfactory to the Company can be made, it will adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for the authorization, issuance and sale of one or more series of said revenue bonds and the acquisition, construction and equipping of the Projects, as aforesaid, all as shall be authorized by law and mutually satisfactory to the Issuer and the Company.

(c) That it will use its best efforts to finance the acquisition, construction and equipping of the Projects, by the issuance and sale of one or more series of Environmental Improvement Revenue Bonds and making the proceeds therefrom available to the Company or such other entities as are designated and approved by the Company, such loan or loans to be secured by a pledge and assignment of a financing agreement or agreements, between the Company (or such other entities as are designated and approved by the Company) and Issuer, or such other obligations as may be agreed upon between the Issuer and the Company. Said Environmental Improvement Revenue Bonds shall be payable by the Issuer solely from amounts received from the Company pursuant to said financing agreement or agreements. The Environmental Improvement Revenue Bonds shall not in any respect be a general obligation of the Issuer nor shall they be payable in any manner from funds raised by taxation.

(d) That it will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

(e) That it will use its best efforts to obtain an allocation of volume cap from the State of Indiana for one or more series of the Environmental Improvement Revenue Bonds.

Section 3. Undertakings on the Part of the Company. Subject to the conditions above stated, the Company agrees as follows:

(a) That it will use all reasonable efforts to find one or more purchasers for one or more series of the Environmental Improvement Revenue Bonds.

(b) That it will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the construction, acquisition and equipping of the Projects, and that at the time, if any, of the delivery of one or more series of said revenue bonds by the Issuer, execute and assign such debt instruments all as shall be authorized by law and mutually satisfactory to the Issuer and the Company, or enter into such arrangements and/or undertakings with the Issuer as may be authorized or permitted by law and mutually agreeable to the Issuer and the Company.

(c) That contemporaneously with the delivery of one or more series of said revenue bonds by the Issuer, it will enter into appropriate instruments with the Issuer under the terms of which the Company (or others to be designated and approved by the Company) will obligate itself (or themselves) to pay to the Issuer sums sufficient in the aggregate to pay the principal of and interest and redemption premium, if any, on one or more series of said revenue bonds as and when the same shall become due and payable,

such instruments to contain provisions required by law and such other provisions as shall be mutually acceptable to the Issuer and the Company.

(d) That it may designate and appoint other entities, corporations, partnerships or joint ventures (which shall be satisfactory to the Issuer) to perform its obligations under this Memorandum of Agreement, including without limitation Sections 3(b) and 3(c) hereof.

(e) That it will take such further action and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

(f) That the Company will pay or cause to be paid from bond proceeds any reasonable fees due and payable to the Issuer, the Warrick County Economic Development Commission and their attorneys incurred by any of them in connection with the proposed issuance of one or more series of revenue bonds to finance the Projects.

Section 4. General Provisions.

(a) All commitments of the Issuer under Section 2 hereof and of the Company under Section 3 hereof, are subject to the conditions that on or before December 31, 2015 (or such other date as shall be mutually satisfactory to the Issuer and the Company), the Issuer and the Company shall have agreed to mutually acceptable terms for one or more series of the revenue bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the contracts and instruments referred to in Section 3 and the proceedings referred to in Sections 2 and 3 hereof.

(b) If the events set forth in (a) of this Section do not take place within the time set forth or any extension thereof and one or more series of said revenue bonds are not sold within such time, the Company agrees that it will reimburse the Issuer for all

reasonable and necessary direct out-of-pocket expenses which the Issuer may incur at its request, arising from the execution of this Memorandum of Agreement and the performance by the Issuer of its obligations hereunder, and this Agreement shall thereupon terminate.

(c) Any and all obligations of the Company hereunder may be performed on behalf of the Company by its designee and the Projects may be owned and operated by a designee of the Company.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by their officers thereunto duly authorized as of the 10th day of May, 2006.

WARRICK COUNTY, INDIANA

By _____
Phil Baxter, County Commissioner

By _____
Carol Conner, County Commissioner

By _____
Don Williams, County Commissioner

ATTEST:

Richard Kixmiller, County Auditor

SOUTHERN INDIANA GAS AND ELECTRIC
COMPANY

By _____
Robert L. Goocher,
Vice President and Treasurer

ATTEST:

Robert E. Heidorn, Assistant Secretary

STATE OF INDIANA)
) SS
COUNTY OF WARRICK)

I, Richard Kixmiller, hereby certify that I am the duly qualified and acting County Auditor in and for Warrick County, Indiana and as such official I further certify that the attached is a true and correct copy of Resolution No. _____ as adopted by the County Council of said County on May 4, 2006 and said Resolution relating to a financing for Southern Indiana Gas and Electric Company remains in full force and effect and has not been rescinded by the County Council of said County; and that said transcript hereto attached is a true, correct and complete copy of all of the corporate records showing the action taken by the Council regarding said Resolution.

WITNESS my hand and the corporate seal of the County Council of Warrick County, Indiana hereto affixed, this 4th day of May, 2006.

Richard Kixmiller, County Auditor

EXCERPT FROM THE MINUTES OF THE MEETING OF THE
COUNTY COUNCIL OF WARRICK COUNTY, INDIANA
ON MAY 4, 2006

The County Council of Warrick County, Indiana met in regular session at 6:00 P.M. on May 4, 2006 at the Commissioners Meeting Room, 107 W. Locust Street in Boonville, Warrick County, Indiana, pursuant to notice duly given. The meeting was called to order and there were present, Gary Meyer, President, in the chair, and the following named members of the Warrick County Council:

McIntyre, Addington, Hachmeister, Richmond,
Schitter

Absent: _____

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(Other Proceedings)

The County Auditor presented to the Council a Resolution of the Warrick County Economic Development Commission adopted on April 24, 2006 entitled, "RESOLUTION OF THE WARRICK COUNTY ECONOMIC DEVELOPMENT COMMISSION RELATING TO A PROPOSED FINANCING FOR SOUTHERN INDIANA GAS AND ELECTRIC COMPANY."

Councilman Schitter introduced and caused to be read a resolution entitled, "RESOLUTION OF THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT BETWEEN WARRICK COUNTY, INDIANA AND SOUTHERN INDIANA GAS AND ELECTRIC COMPANY OR ITS DESIGNEE IN CONNECTION WITH THE ISSUANCE AND SALE BY WARRICK COUNTY, INDIANA OF ONE OR MORE SERIES OF ITS ENVIRONMENTAL IMPROVEMENT REVENUE BONDS AND RELATED MATTERS," and moved for its adoption; seconded by Councilman Addington. After due consideration of said resolution by the Council, the President put the question on the motion and upon the roll being called the following named Council members voted:

AYE:

Meyer, McIntyre, Addington, Hachmeister,
Richmond, Schitter

NAY: _____

Whereupon, the President declared said resolution duly thereto and ordered the same to be filed in the official public record.

Original BUT
NOT Fully
Executed

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(Other Proceedings)

There being no further business, on motion duly made, seconded and carried, the meeting duly adjourned.

WARRICK COUNTY COUNCIL

Gary Meyer, D.D.S., President

Richard Kixmiller, County Auditor